

GREENBERG GLUSKER FIELDS CLAMAN  
& MACHTINGER LLP  
1900 Avenue of the Stars, 21st Floor  
Los Angeles, California 90067-4590

1 BONNIE E. ESKENAZI (SBN 119401)  
BEskenazi@ggfirm.com  
2 ELISABETH A. MORIARTY (SBN 156569)  
EMoriarty@ggfirm.com  
3 RICARDO P. CESTERO (SBN 203230)  
RCester@ggfirm.com  
4 GREENBERG GLUSKER FIELDS CLAMAN &  
MACHTINGER LLP  
5 1900 Avenue of the Stars, 21st Floor  
Los Angeles, California 90067-4590  
6 Telephone: 310.553.3610  
Fax: 310.553.0687

7 Attorneys for Plaintiffs and Counterclaim Defendants

8  
9 UNITED STATES DISTRICT COURT

10 CENTRAL DISTRICT OF CALIFORNIA

11 FOURTH AGE LIMITED, et al.,

12 Plaintiffs,

13 v.

14 WARNER BROS. DIGITAL  
DISTRIBUTION, INC., et al.,

15 Defendants.

16 WARNER BROS. DIGITAL  
DISTRIBUTION, INC., et al.,

17 Counterclaim Plaintiffs,

18 v.

19 FOURTH AGE LIMITED, et al.,

20 Counterclaim Defendants.

21 Case No. CV 12-09912 ABC (SHx)

22 *Hon. Audrey B. Collins*  
*Hon. Mag. Stephen J. Hillman*

23 **DISCOVERY MATTER**

24 **SUPPLEMENTAL  
DECLARATION OF RACHEL  
VALADEZ IN SUPPORT OF THE  
TOLKIEN/HC PARTIES' REPLY  
RE MOTION FOR PROTECTIVE  
ORDER RE NOTICE OF  
DEPOSITION OF CHRIS SMITH**

25 [Fed. R. Civ. P. 37(a) and Central  
Dist. Local Rule 37-2]

26 [Reply Memorandum of Points and  
Authorities filed concurrently  
herewith]

27 Hearing Date: August 25, 2014

28 Time: 2:00 p.m.

Action Filed: November 19, 2012

Discovery Cutoff: July 29, 2014

Trial Date, Pretrial Conf. and Motion

Cutoff Date: Vacated

## **DECLARATION OF RACHEL VALADEZ**

I, Rachel Valadez, declare:

3       1. I am an attorney duly licensed to practice in all of the courts of the  
4 State of California and I am associated with the firm of Greenberg Glusker Fields  
5 Claman & Machtiner LLP, attorneys of record for Fourth Age Limited, Priscilla  
6 Mary Anne Reuel Tolkien, as Trustee of the Tolkien Trust, the J.R.R. Tolkien  
7 Estate Limited, Harper Collins Publishers, Ltd., Unwin Hyman, Ltd. and George  
8 Allen & Unwin (Publishers), Ltd. (the “Tolkien/HC Parties”) herein. I submit this  
9 declaration in support of the Tolkien/HC Parties’ Motion for Protective Order  
10 Regarding the Deposition of Chris Smith (the “Motion”). The facts set forth herein  
11 are of my own personal knowledge and if sworn I could and would testify  
12 competently thereto under oath.

13        2. Defendants and counterclaim plaintiffs Warner Bros. Home  
14 Entertainment Inc., Warner Bros. Entertainment Inc., Warner Bros. Consumer  
15 Products Inc. and New Line Productions, Inc. (collectively, “Warner”) and The  
16 Saul Zaentz Company (“Zaentz”) (collectively, “Defendants”) have already each  
17 noticed and deposed the Tolkien Parties pursuant to F.R.C.P. Rule 30(b)(6).  
18 Attached hereto as Exhibit “A” is a true and correct copy of Zaentz’s Notice of  
19 Deposition of the Tolkien Parties pursuant to F.R.C.P. Rule 30(b)(6) served on  
20 November 8, 2013. Attached hereto as Exhibit “B” is a true and correct copy of  
21 Warner’s Notice of Supplemental Deposition Topics for Rule 30(b)(6) of Fourth  
22 Age Ltd. served on January 7, 2014. Attached hereto as Exhibit “C” is a true and  
23 correct copy of Zaentz’s Amended Notice of Deposition of the Tolkien Parties  
24 pursuant to F.R.C.P. Rule 30(b)(6) served on January 13, 2014. Attached hereto as  
25 Exhibit “D” is a true and correct copy of Warner’s Notice of Deposition of Fourth  
26 Age pursuant to F.R.C.P. Rule 30(b)(6) served on July 11, 2014, the date on which  
27 the deposition of the Tolkien Parties pursuant to F.R.C.P. Rule 30(b)(6) went  
28 forward based on the above notices and topics contained therein.

1       3. The Tolkien Parties designated their outside counsel, Cathleen  
 2 Blackburn, to testify on their behalf during Defendants' first 30(b)(6) deposition of  
 3 the Tolkien Parties. Defendants have already deposed Ms. Blackburn on two  
 4 additional days in her percipient capacity. On all three prior occasions on which  
 5 Defendants deposed Ms. Blackburn, they frequently covered the same topics,  
 6 putting the same documents and questions to her repeatedly. Defendants have  
 7 already deposed Ms. Blackburn and the Tolkien Parties on the very topics outlined  
 8 in the Second 30(b)(6) Notice.

9       4. Warner has known of the existence of Andrew Boose as a potential  
 10 witness in this case since at least December 2013 at the very latest, when Ms.  
 11 Blackburn identified Mr. Boose in her deposition as the primary contact at Davis  
 12 Wright Tremaine, prior U.S.-based counsel for the Tolkien Parties. Yet, Warner  
 13 served its subpoena on Mr. Boose just six days prior to the discovery cutoff and  
 14 demanded that Mr. Boose produce nearly twenty-five years' worth of files on less  
 15 than a week's notice. Mr. Boose is a New York resident.

16       5. The Tolkien/HC Parties' decision to depose Jeremy Williams resulted  
 17 from Zaentz taking a position during its 30(b)(6) deposition on July 21, 2014 that  
 18 directly implicated Mr. Williams and was utterly inconsistent with Zaentz's prior  
 19 position regarding a 2010 Revocation and Regrant Agreement between the parties.  
 20 When Warner first received the Tolkien/HC Parties' notice of deposition of Mr.  
 21 Williams, it agreed to produce him – indicating only that “[b]ecause Jeremy  
 22 Williams has commitments out-of-the office on July 29, the noticed date, [counsel  
 23 needed to] check[] on alternative dates.” Attached hereto as Exhibit “E” is a true  
 24 and correct copy of Warner’s counsel, Molly Lens’, July 23, 2014 email to me  
 25 informing the Tolkien/HC Parties that Mr. Williams would need to be deposed on  
 26 an alternative date than the date noticed. Mr. Williams resides in Los Angeles.

27       6. The Tolkien/HC Parties first indicated their intent to depose Ms.  
 28 Barrett on March 20, 2014. Attached hereto as Exhibit “F” is a true and correct

copy of a March 20, 2014 email in which I informed Defendants’ counsel that the Tolkien/HC Parties intended to depose Ms. Barrett. The original date for Ms. Barrett’s deposition – June 11, 2014 – was initially agreed upon by all parties as of May 27, 2014. Attached hereto as Exhibit “G” is a true and correct copy of a May 27, 2014 email, along with preceding email correspondence, in which Defendants confirmed Ms. Barrett’s deposition would go forward on June 11 in Naples, Florida. All parties then agreed to postpone Ms. Barrett’s deposition due to the fact that Zaentz’s counsel informed the parties that Ms. Barrett and her husband were suffering from serious health-related issues, and would have to reschedule to a later date. All parties have since operated with the understanding that Ms. Barrett’s deposition would go forward as soon as her and her husband were well enough, even if that meant she would have to be deposed after the discovery cutoff.

13        7. As to Microgaming, the Tolkien/HC Parties first filed their application  
14 for a Letter of Request this Court on June 3, 2014. *See* Docket Entry No. 177. This  
15 Court issued a Letter of Request on June 6, 2014. *See* Docket Entry No. 277. That  
16 Letter of Request has since been proceeding in the normal course through the  
17 Courts in the Isle of Man.

19 I declare under penalty of perjury under the laws of the United States of  
20 America that the foregoing is true and correct.

22 Executed this 11th day of August, 2014 at Los Angeles, California.

/s/ Rachel Valadez  
Rachel Valadez